

## ORDINANCE NO. 07-12

### AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, CREATING A TEMPORARY BACKYARD CHICKEN PILOT PROGRAM TO ALLOW THE KEEPING OF CHICKENS WITHIN CERTAIN RESIDENTIAL ZONING DISTRICTS AND CREATING TERMS AND CONDITIONS CONCERNING THE KEEPING OF CHICKENS; PROVIDING FOR CONFLICTS, SEVERABILITY, EFFECTIVE DATE AND SUNSET DATE.

WHEREAS, the concept of local sustainability has inspired an interest in backyard food production; and

WHEREAS, currently the City of DeBary Land Development Code permits livestock and poultry only in agricultural zoning districts; and

WHEREAS, many communities around the country have been exploring how to compatibly integrate backyard chickens into the urban residential setting; and

WHEREAS, other local governments have found in passing ordinances allowing the keeping of chickens in residential areas that three (3) chickens are sufficient to meet the needs of the average family's egg consumption; and

WHEREAS, the City Council desires to implement a 1-year temporary pilot program to permit the keeping of up to three chickens on an occupied single-family property within the RR, RA, R-3, R-4 and R-5 zoning districts, subject to the terms and conditions of this Ordinance.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

**SECTION 1. Authority/Findings.** The City of DeBary has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, the City of DeBary Charter, and Chapters 163 and 166, Florida Statutes. The "Whereas" clauses set forth above shall constitute the legislative findings of the City Council of the City of DeBary.

**SECTION 2.** The following provisions are hereby adopted by the City of DeBary:

(i) *Intent/definitions.*

(1) The intent of this Ordinance is to create and implement a 1-year temporary Backyard Chicken Pilot Program to permit the keeping of up to three chickens by no more than seven (7)

families on an occupied single-family property within the RR, RA, R-3, R-4 and R-5 zoning districts, subject to the terms and conditions of this Ordinance.

(2) For the purposes of this Ordinance, the term "chicken" refers to female chickens only (i.e., hens).

(3) This Ordinance does not authorize persons to violate applicable restrictive covenants and homeowners' association rules and regulations. The City does not police or enforce private restrictive covenants and homeowners' association rules and regulations. Persons applying for and receiving temporary permits under this Ordinance are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations.

*(ii) Temporary permit and general conditions for the keeping of chickens in the certain residential zoning districts.*

(1) Persons desiring to participate in the temporary chicken keeping program under this Ordinance shall apply for and obtain a temporary permit from the City Manager or his designee prior to keeping chickens. The City Manager shall charge a non-refundable fee of \$50.00 to persons applying for a temporary permit under this Ordinance to cover processing costs. If the person applying for a temporary permit is not the fee simple owner of the subject property, the fee simple owner must join in and consent to the application. No more than seven (7) temporary permits will be issued under this Ordinance.

(2) In order to obtain a temporary permit under this Ordinance, persons applying for a temporary permit for the keeping of chickens must show that they can meet the requirements of this Ordinance. The City may conduct site inspections of the subject property to make compliance determinations under this Ordinance prior and after issuance of a permit. The City Manager may deny a temporary permit application if he determines that the person(s) applying for a temporary permit cannot meet the requirements of this Ordinance. The issuance of a temporary permit for the keeping of chickens is conditioned upon and subject to the terms and conditions of this Ordinance. Regardless of the date a temporary permit is issued for the keeping of chickens, such temporary permit shall terminate and expire on December 31, 2013, unless terminated earlier or extended by City Council action extending the sunset and termination date set forth in Section 7 of this Ordinance.

(3) A prerequisite for a temporary permit is that persons applying for a temporary permit shall obtain and submit to the City the written approval for the proposed chicken keeping from all property owners within 200 feet of the applicant's property lines.

(4) By applying for a temporary permit under this Ordinance, persons applying for such permit thereby (a) agree to the terms and conditions of this Ordinance, (b) grant the City and its officers, employees and agents a right-of-entry upon the Subject Property (including the rear yard) for inspection purposes to ensure compliance with this Ordinance prior to and after the issuance of a temporary permit, (c) agree to remove chickens and chicken coops and enclosures upon the termination or expiration of a temporary permit and/or this Ordinance, and (d) hold the City and its officials, officers, employees and agents harmless concerning matters relating to or

concerning the temporary permit and this Ordinance. As a condition of obtaining a temporary permit, the City Manager may require persons applying for a temporary permit to sign an agreement, in a form acceptable to the City Manager, incorporating the agreements of this subsection (4).

(5) Up to three (3) chickens may be kept within an occupied single-family property located in the RR, RA, R-3, R-4 and R-5 zoning districts upon receiving a temporary permit from the City Manager or his designee. Chickens are prohibited within planned unit development (PUD) zoned districts even if the terms of a PUD incorporate the permitted uses of residential districts referenced in this Ordinance. Chickens shall not be kept on duplex, triplex or multifamily properties, or within mobile home/manufactured home parks.

(6) Chickens must be kept within a coop or enclosure at all times.

(7) Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this Ordinance.

(8) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.

(9) Chickens shall not be slaughtered on premises.

(10) The coop and enclosure must be screened from the neighbor's view, using an opaque fence and/or a landscape screen.

(11) All applicable building permits shall be obtained prior to constructing enclosures to house chickens.

*(iii) Location and requirements for chicken coops and enclosures.*

(1) Any chicken coop and fenced enclosure must be located in the rear yard. No coop or enclosure shall be allowed in any front or side yard. (Corner lots shall be excluded from the side setback restriction).

(2) The coop and enclosure must be a minimum of ten feet from the rear and side property line.

(3) If the coop structure exceeds 100 square feet in size (ten-foot by ten-foot), a building permit is required under the Florida Building Code.

(4) The coop shall be covered and ventilated, and a fenced enclosure/run is required. The coop and enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates (fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators).

(5) All stored feed must be kept in a rodent and predator-proof container.

(6) The coop shall provide a minimum of three square feet per chicken and be of sufficient size to permit free movement of the chickens. The coop may not be taller than six feet, measured from the natural grade, and must be easily accessible for cleaning and maintenance.

(iv) *Health, sanitation and nuisance as applied to the keeping of chickens.*

(1) Chickens shall be kept within a coop and enclosure. No person shall release or set any chicken free from such coop or enclosure.

(2) Chicken coops and enclosures shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.

(3) In a public health emergency declared by the Volusia County Health Department, including but not limited to an outbreak of Avian Flu or West Nile virus, immediate corrective action may be required, in accordance with applicable public health regulations and procedures and in conjunction with Animal Services.

(v) *Violations.* In the event that a violation of this Ordinance occurs, the City shall have the right to one or more of the following remedies or actions:

(1) Institute code enforcement proceedings and prosecute code violations against the violator and the property owner of the real property where the violation occurs;

(2) Prosecute the violator for a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court;

(3) Issue a civil citation as a Class III violation to the violator for each violation in accordance with Chapter 2, Article III, Division 4, City of DeBary Code of Ordinances;

(4) Take any other action or remedy authorized by law or in equity, including but not limited to, instituting an action in court to enjoin violating actions, in which case the violating person shall be liable to the City for reimbursement of the City's attorneys' fees and costs concerning such action; and

(5) Revoke the temporary permit for the keeping of chickens.

No person convicted as a repeat violator of subsections (i) through (v) of Section 2 of this Ordinance may be permitted to, or continue to, keep chickens on their premises.

**SECTION 3. Conflicts.** This Ordinance shall control over any ordinances or parts of ordinances in conflict herewith.

**SECTION 4. Severability.** The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

**SECTION 5. No Codification.** It is the intention of the City Council of the City of DeBary, Florida, that the provisions of this Ordinance not be codified.

**SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon the second reading and final adoption of this Ordinance.

**SECTION 7. Sunset Date.** This Ordinance and the provisions hereof shall sunset and expire on December 31, 2013; provided however, such shall not affect the City's ability to prosecute violations of this Ordinance for violations occurring prior to such sunset and expiration date. The City Council may, by resolution, extend the December 31, 2013, sunset and expiration date of this Ordinance.

First reading and public hearing was held on the 7th day of November, 2012

Second reading, public hearing and adoption was held on the \_\_\_\_ day of \_\_\_\_\_, 2012

CITY OF DEBARY

CITY COUNCIL

\_\_\_\_\_  
Bob Garcia, Mayor

**ATTEST:**

\_\_\_\_\_  
Stacy Tebo, City Clerk